



for use in connection with Plaintiff's apparel business (the "Copyrighted Designs") and therefore denies that allegation. Defendant denies the remaining allegation of ¶ 2.

3. Defendant Reliable admits that Plaintiff's action is based on allegations of copying, reproduction, distribution, public display, and sale of certain copyrighted designs, without authorization, and that Plaintiff alleges that such actions are willful. Defendant denies the alleged infringement and denies that the alleged infringement was willful. Defendant admits that Plaintiff's suit is brought under the United States Copyright Act of 1976, as amended (the "Copyright Act"), 17 U.S.C. § 101 et seq.

4. Defendant Reliable admits that Plaintiff is seeking all remedies afforded by the Copyright Act, including permanent injunctive relief, Plaintiff's damages, Defendants' profits from the infringing conduct, and other relief, and denies that Plaintiff is entitled to such relief.

#### **PARTIES, JURISDICTION, AND VENUE**

5. Defendant Reliable admits that this action is brought under the Copyright Act [17 U.S.C. § 101 et seq.] and denies the remaining allegations of ¶ 5.

6. Admitted.

7. Defendant Reliable is without sufficient information to admit or deny the allegations, and therefore denies the allegations of ¶ 7.

8. Defendant Reliable is without sufficient information to admit or deny the allegations, and therefore denies the allegations of ¶ 8.

9. Defendant Reliable is without sufficient information to admit or deny the allegations, and therefore denies the allegations of ¶ 9.

10. Denied.

11. Admitted.

12. Admitted.

13. Admitted.

14. Denied.

15. Denied.

16. Denied.

### **FACTS**

#### **A. Plaintiff and its Copyrighted Designs**

17. Defendant Reliable is without sufficient information to admit or deny the allegations, and therefore denies the allegations of ¶ 17.

18. Defendant Reliable is without sufficient information to admit or deny the allegations, and therefore denies the allegations of ¶ 18.

19. Defendant Reliable admits that Exhibit 1 demonstrates three designs designated as PSHO15197G\_#1, PSHO15197G\_#2, and PSHO15263A\_#1. Defendant admits that PSHO15197G\_#1 is shown in a white on red colorway, that PSHO15197G\_#2 is shown in a black on gray colorway, and that PSHO15263A\_#1 is shown in black with chevrons. Defendant is without sufficient information to admit or deny the remaining allegations, and therefore denies the remaining allegations of ¶ 19.

20. Defendant Reliable is without sufficient information to admit or deny the allegations, and therefore denies the allegations of ¶ 20.

21. Defendant Reliable is without sufficient information to admit or deny the allegations, and therefore denies the allegations of ¶ 21.

22. Defendant Reliable is without sufficient information to admit or deny the allegations, and therefore denies the allegations of ¶ 22.

23. Defendant Reliable admits that Exhibit 2 purports to be copies of U.S. Copyright Registration Nos. VAu 1-426-984 and VAu 1-427-701 (together, the “Copyright Registrations”).

Defendant admits that the Copyright Registrations list STUDIO NAZAR INC. as the “Author” and “Copyright Claimant.” Defendant is without sufficient information to admit or deny the remaining allegations, and therefore denies the remaining allegations of ¶ 23.

24. Defendant Reliable admits that Exhibit 2 attaches what purports to be U.S. Copyright Registration No. VAu 1-426-984 for a Group of Unpublished Works. Defendant admits that what purports to be Registration No. VAu 1-426-984 lists a “Group Title” as “PSHO15263A\_#1\_PAPER CUT FW20 COLLECTION\_5 and 9 Other Unpublished Works.” Defendant admits that “PSHO15263A\_#1\_PAPER CUT FW20 COLLECTION\_5” is listed under “Content Title” for what purports to be Registration No. VAu 1-426-984. Defendant is without sufficient information to admit or deny the remaining allegations, and therefore denies the remaining allegations of ¶ 24.

25. Defendant Reliable admits that Exhibit 2 attaches what purports to be U.S. Copyright Registration No VAu 1-427-701for a Group of Unpublished Works. Defendant admits that what purports to be Registration No. VAu 1-427-701lists a “Group Title” as “PSSW1722\_#1\_PAPER CUT FW20 COLLECTION\_6 and 9 Other Unpublished Works.” Defendant admits that “PSHO15197G\_#1\_PAPER CUT FW20 COLLECTION\_6” is listed under “Content Title” for what purports to be Registration No. VAu 1-426-984. Defendant is without sufficient information to admit or deny the remaining allegations, and therefore denies the remaining allegations of ¶ 25.

26. Defendant Reliable is without sufficient information to admit or deny the allegations, and therefore denies the allegations of ¶ 26.

27. Defendant Reliable is without sufficient information to admit or deny the allegations, and therefore denies the allegations of ¶ 27.

28. Defendant Reliable is without sufficient information to admit or deny the allegations, and therefore denies the allegations of ¶ 28.

29. Defendant Reliable is without sufficient information to admit or deny the allegations, and therefore denies the allegations of ¶ 29.

30. Defendant Reliable is without sufficient information to admit or deny the allegations, and therefore denies the allegations of ¶ 30.

**B. Defendants' Infringing Conduct**

31. Denied.

32. Admitted.

33. Denied.

34. Denied.

35. Denied.

36. Denied.

37. Denied.

38. Defendant Reliable admits that ¶ 38 includes screen captures from www.muk-luks.com dated October 23, 2023 that are reproduced at Exhibit 3. Defendant Reliable denies the remaining allegations of ¶ 38.

39. Denied.

40. Denied.

41. Defendant Reliable is without sufficient information to admit or deny the allegations, and therefore denies the allegations of ¶ 41.

42. Denied.

43. Defendant Reliable is without sufficient information to admit or deny the allegations, and therefore denies the allegations of ¶ 43.

44. Denied.

45. Denied.

46. Denied.

47. Denied.

48. Denied.

49. Denied.

50. Defendant Reliable admits that it has not accounted to or otherwise paid Plaintiff for use of the designs shown in Exhibit 3. Defendant Reliable denies the remaining allegations of ¶ 50.

51. Denied.

**COUNT I**  
**Copyright Infringement against Reliable**  
**(17 U.S.C. § 501 et seq.)**

52. Defendant Reliable repeats and realleges each and every response to the paragraphs set forth above as if fully set forth herein.

53. Defendant Reliable is without sufficient information to admit or deny the allegations, and therefore denies the allegations of ¶ 53.

54. Defendant Reliable is without sufficient information to admit or deny the allegations, and therefore denies the allegations of ¶ 54.

55. Defendant Reliable is without sufficient information to admit or deny the allegations, and therefore denies the allegations of ¶ 55.

56. Denied.

57. Denied.

58. Denied.

59. Denied.

60. Denied.

61. Denied.

62. Denied.

**COUNT II**

**Contributory and/or Vicarious Copyright Infringement against Doe(s) 1-20**  
**(17 U.S.C. § 501 *et seq.*)**

63. Defendant Reliable repeats and realleges each and every response to the paragraphs set forth above as if fully set forth herein.

64. Defendant Reliable is without sufficient information to admit or deny the allegations, and therefore denies the allegations of ¶ 64.

65. Defendant Reliable is without sufficient information to admit or deny the allegations, and therefore denies the allegations of ¶ 65.

66. Defendant Reliable is without sufficient information to admit or deny the allegations, and therefore denies the allegations of ¶ 66.

67. Denied.

68. Denied.

69. Denied.

70. Denied.

71. Denied.

72. Denied.

**DEMAND FOR JURY TRIAL**

Defendant Reliable hereby demands trial by jury of all issues so triable.

### **RESPONSE TO PRAYER FOR RELIEF**

Defendant Reliable denies that Plaintiff is entitled to judgment against Defendant Reliable as alleged in ¶¶ 1- 8 in Plaintiff's Prayer for Relief.

### **AFFIRMATIVE DEFENSES**

1. Failure to State a Claim - Plaintiffs fail to state a claim against Defendant Reliable on which relief can be granted.

2. Third Party Obligations - One or more third parties may be liable for the conduct alleged and will be required to answer and indemnify.

3. License - Defendants have one or more licenses to manufacture, distribute, market, advertise, promote, display, or sell the alleged Copyrighted Designs.

4. Lack of Originality – Plaintiff failed to demonstrate that that all asserted works were independently created and that they possesses at least a minimal degree of creativity.

5. Independent Development –Plaintiff's designs may have been independently created without any knowledge of the copyrighted work.

6. No Willfulness – Defendant Reliable's conduct was innocent, non-infringing, and not a willful infringement of copyright.

7. No Statutory Damages - Plaintiff is barred by 17 U.S.C. section 412 from claiming statutory damages or attorney's fees under the Copyright Act in that any alleged acts of infringement occurred before first registration of the Plaintiff's alleged works.

8. Laches - The action is barred by the doctrine of Laches.

9. Equitable Estoppel – Plaintiff's action is barred by the doctrine of equitable estoppel.

10. Waiver – Plaintiff has waived its rights to claim copyright infringement.

11. Acquiescence - Plaintiff has acquiesced to any alleged copyright infringement.



12. Failure to Register - Plaintiff has failed to register at least purported design PSHO15197G\_#2 as set forth in their Complaint and thus are not permitted to file this suit or maintain this action.

13. First Sale - This action may be barred by the “first sale doctrine” because Plaintiff may have lawfully obtained and possessed one or more of Plaintiff’s copyrighted works. 17 U.S.C. §109(a).

14. Failure to Join - Plaintiff has failed to join indispensable parties.

**PRAYER FOR RELIEF**

**WHEREFORE**, Defendant Reliable prays this Honorable Court for the following relief:

1. For dismissal of the Plaintiff’s action with prejudice;
  2. For a judgment that Plaintiff shall take no relief from their complaint herein;
  3. For an award of Defendant Reliable’s costs and attorneys’ fees herein incurred;
- and
4. For such further and other relief and the Court deems fair and just.

Date: January 5, 2024

Respectfully submitted,

/s/ Trevor M. Gomberg

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